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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-033

Large Residential Washers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that large residential washers (LRWs) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is April 1, 2015, through September 30, 2015. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brian Smith or David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on January 12, 2016.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with and hereby adopted by this notice.² The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Department's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination is July 19, 2016.³

¹ See *Large Residential Washers From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 1398 (January 12, 2016) (*Initiation Notice*).

² See Memorandum entitled "Decision Memorandum for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Large Residential Washers from the People's Republic of China" (Preliminary Decision Memorandum).

³ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas" (January 27, 2016).

Scope of the Investigation

The products covered by this investigation are LRWs. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Scope Comments

In accordance with the *Preamble* to the Department’s regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice*. After consideration of these comments, we preliminarily determined not to amend the scope as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, *see* the Department’s Scope Memorandum issued concurrently with this notice.⁶

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. We calculated constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy, within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full discussion of the Department’s methodology, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Negative Determination of Critical Circumstances, in Part

On May 6, 2016, Whirlpool Corporation (the petitioner) timely filed an allegation of critical circumstances, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(1), alleging

⁴ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 80 FR at 73716.

⁶ *See* Memorandum entitled “Scope Issues for the Preliminary Determination of the Less-Than-Fair-Value (LTFV) Investigation of Large Residential Washers (LRWs) from the People’s Republic of China,” dated concurrently with this notice (Scope Memorandum).

that critical circumstances exist with respect to imports of the merchandise under consideration. We preliminarily determine that critical circumstances do not exist for Nanjing LG-Panda Appliances Co., Ltd., but do exist with respect to Suzhou Samsung Electronics Co., Ltd./Suzhou Samsung Electronics Co. Ltd – Export (collectively, Samsung) and the PRC-wide entity. For a full description of the methodology and results of our analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period April 1, 2015, through September 30, 2015:

Exporter	Producer	Weighted-Average Margin (%)
Nanjing LG-Panda Appliances Co., Ltd. / LG Electronics, Inc.	Nanjing LG-Panda Appliances Co., Ltd.	49.88
Suzhou Samsung Electronics Co., Ltd./ Suzhou Samsung Electronics Co. Ltd – Export / Samsung Electronics Co., Ltd.	Suzhou Samsung Electronics Co., Ltd./ Suzhou Samsung Electronics Co. Ltd – Export	111.09
PRC-Wide Entity		80.49

PRC-Wide Rate

In calculating rates for non-individually investigated respondents in the context of non-market economy cases, the Department looks to section 735(c)(5)(A)-(B) of the Act, which provides instructions for calculating the all-others rate in an investigation.⁷ Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be equivalent to the weighted average of the estimated weighted-average dumping margins calculated for exporters and producers individually investigated, excluding any margins that are zero, *de minimis*, or based entirely on

⁷ *See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013), and accompanying Issues and Decision Memorandum at page 4-5.

facts available. Section 735(c)(5)(B) of the Act provides that where all individually investigated exporters or producers receive rates that are zero, *de minimis*, or based entirely on facts available, then the Department may use “any reasonable method” to establish the all-others rate for those companies not individually investigated.

Apart from the mandatory respondents in this investigation, no other PRC exporters of the subject merchandise during the POI established entitlement to a separate rate.⁸ Thus, no non-individually examined separate rates are being assigned in this segment. Moreover, the PRC-wide entity is not being individually examined in this investigation. Furthermore, there currently exist no respondents that have failed to cooperate in this investigation, and there are no zero or *de minimis* margins. Therefore, we are preliminarily determining the PRC-wide rate based on a simple average of the calculated rates determined for the mandatory respondents,⁹ in accordance with section 735(c)(5)(A) of the Act.¹⁰

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LRWs from the

⁸ See Preliminary Decision Memorandum.

⁹ With two respondents, we would normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company’s publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). In this case, however, we do not have complete publicly-ranged quantities from either respondent on the record to properly conduct this comparison. Therefore, we are using a simple average of the dumping margins calculated for the mandatory respondents as the PRC-wide rate for this preliminary determination, and we intend to ask the respondents to provide a complete, publicly-ranged summary of their U.S. sales quantities for consideration in the final determination.

¹⁰ See *Welded Stainless Pressure Pipe From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 79 FR 31092 -93 (May 30, 2014); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 39125, 39127 (June 23, 2000).

PRC, as described in the “Scope of the Investigation” section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. We preliminarily find that critical circumstances exist for imports of LRWs from the PRC produced and/or exported by Samsung and the PRC-wide entity. Accordingly, for Samsung and the PRC-wide entity, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit¹¹ equal to the weighted-average amount by which NV exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer

¹¹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.¹³ Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and

¹² See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

¹³ See 19 CFR 351.310(c).

location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination by the Department, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On June 27 and 29, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), LG and Samsung, respectively, requested that the Department postpone its final determination, and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we

will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹⁴

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. Because the preliminary determination in this investigation is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of LRWs from the PRC before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

July 19, 2016 _____
Date

¹⁴ See 19 CFR 351.210(e).

List of Topics Discussed in the Preliminary Decision Memorandum

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Appendix I: Scope of the Investigation

The products covered by this investigation are all large residential washers and certain parts thereof from the People's Republic of China.

For purposes of this investigation, the term "large residential washers" denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm), except as noted below.

Also covered are certain parts used in large residential washers, namely: (1) all cabinets, or portions thereof, designed for use in large residential washers; (2) all assembled tubs¹⁵ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets¹⁶ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;¹⁷ (b) a base; and (c) a drive hub;¹⁸ and (4) any combination of the foregoing parts or subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term "stacked washer-dryers" denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term "commercial washer" denotes an automatic clothes washing machine designed for the "pay per use" segment meeting either of the following two definitions:

(1) (a) it contains payment system electronics;¹⁹ (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;²⁰ or

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,²¹ the unit cannot begin a wash cycle without first receiving a signal from a bona fide payment acceptance device such as an electronic credit card reader; (c) it

¹⁵ A "tub" is the part of the washer designed to hold water.

¹⁶ A "basket" (sometimes referred to as a "drum") is the part of the washer designed to hold clothing or other fabrics.

¹⁷ A "side wrapper" is the cylindrical part of the basket that actually holds the clothing or other fabrics.

¹⁸ A "drive hub" is the hub at the center of the base that bears the load from the motor.

¹⁹ "Payment system electronics" denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

²⁰ A "security fastener" is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a "center pin reject" feature to prevent standard Allen wrenches or Torx drivers from working.

²¹ "Normal operation" refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a vertical rotational axis; (2) are top loading;²² (3) have a drive train consisting, *inter alia*, of (a) a permanent split capacitor (PSC) motor,²³ (b) a belt drive,²⁴ and (c) a flat wrap spring clutch.²⁵

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a horizontal rotational axis; (2) are front loading;²⁶ and (3) have a drive train consisting, *inter alia*, of (a) a controlled induction motor (CIM),²⁷ and (b) a belt drive.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a horizontal rotational axis; (2) are front loading; and (3) have cabinet width (measured from its widest point) of more than 28.5 inches (72.39 cm).

The products subject to this investigation are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

²² “Top loading” means that access to the basket is from the top of the washer.

²³ A “PSC motor” is an asynchronous, alternating current (AC), single phase induction motor that employs split phase capacitor technology.

²⁴ A “belt drive” refers to a drive system that includes a belt and pulleys.

²⁵ A “flat wrap spring clutch” is a flat metal spring that, when engaged, links abutted cylindrical pieces on the input shaft with the end of the concentric output shaft that connects to the drive hub.

²⁶ “Front loading” means that access to the basket is from the front of the washer.

²⁷ A “controlled induction motor” is an asynchronous, alternating current (AC), polyphase induction motor.

